



SCOTTISH CHILD PAYMENT: UPDATED POLICY POSITION PAPER – OCTOBER 2019

INTRODUCTION

On 26 June, the Scottish Government announced our intention to introduce a new benefit to provide additional support for low income families, and help tackle child poverty – the Scottish Child Payment.

As set out at the time of the announcement, the Scottish Child Payment will be administered by Social Security Scotland through an application-based process, and will be a payment for each eligible child in the family: there will be no cap on the number of eligible children a family may receive a payment for.

Early payments of the Scottish Child Payment will be made to families with children under the age of 6 – recognising that, of all children in poverty, almost 60% live in a household where the youngest child is aged under 6, and the early years are key to improving long-term outcomes. These early payments could support around 170,000 eligible children in around 140,000 households, and we expect to invest around £70 million in 2021/22 (the first full year of payments to under 6s).

At the time of the initial announcement being made, we expected these early payments to begin before the end of the current Parliamentary term in 2021. However, following further detailed work to consider delivery implications, and in recognition of the scale of the challenge on child poverty, we announced in the 2019 Programme for Government (PfG) that this date would be brought forward. As set out in the PfG, the Scottish Child Payment will now open for applications in autumn 2020, with the first payments reaching families by Christmas 2020.

Assuming that we get the cooperation we need from the UK Government, the Scottish Child Payment will be rolled out to all eligible children under 16 before the end of 2022. Once fully rolled out, it could support up to 410,000 children and young people – meaning over a third of all children in Scotland will be eligible. We expect to invest around £180 million in the benefit, and reduce relative child poverty by 3 percentage points.

At the time of the initial Scottish Child Payment announcement, we published a [position paper](#), setting out the process of development of the Scottish Child Payment and the expected policy impacts it will have. It was published alongside both the [Tackling Child Poverty Delivery Plan – First Year Progress Report 2018-19](#) and [Analysis of Options for the Income Supplement](#), a detailed analytical paper that shows the consideration given to a wider set of policy options.

This updated position paper sets out policy developments in relation to the Scottish Child Payment which have been undertaken alongside continued work on service design and delivery.

LEGISLATIVE DEVELOPMENT

Scottish Regulations

As we set out at the time of the initial announcement, to ensure we are able to deliver the Scottish Child Payment quickly and early, we will introduce it through secondary legislation, using regulation making powers to top up reserved benefits contained in the Social Security (Scotland) Act 2018.

In developing the payment, we prioritised ensuring we could deliver in a safe and secure manner, with a positive impact for children and families, while also minimising as far as possible any negative impact on the existing programme of devolved benefits. The legal route we have chosen, while ensuring we can deliver payments early, also places constraints on what we are able to do at this time. Where this has been the case, the implications are clearly set out in this paper.

The positions set out in our first paper, and the further developments here, form the basis of the draft regulations for the Scottish Child Payment. These will be submitted shortly to the Scottish Commission on Social Security for scrutiny. The Commission will provide a report following their scrutiny which the Scottish Government will respond to, and it is our intention to lay regulations in the Scottish Parliament (expected to be in early 2020). In taking this work forward, we have continued to engage closely with stakeholders, through one-to-one meetings and roundtable events, along with detailed user research involving people with experience of the social security system, and those who may be eligible for the Scottish Child Payment, including families and early years groups.

UK Legislation

Along with requirements for Scottish legislation to be in place ahead of payments being made, we are also dependent on the UK Government and Parliament's co-operation in amending UK legislation, through section 104 orders under the Scotland Act.

An order will be required with DWP, to amend existing UK benefit regulations. This will see that the Scottish Child Payment is disregarded as income for the purposes of means-tested benefits – ensuring that the terms of the Fiscal Framework are met, for any top-up payments from the Scottish Government to be additional income, and not result in an automatic, off-setting reduction elsewhere in a person's benefit entitlement.

At the same time, we will also require an order with HMRC to amend UK legislation to facilitate the sharing of data between UK Ministers and Scottish Ministers. This will ensure we are able to access the full data we need in order to verify applications.

Timescales for these are very tight, since Section 104 Orders usually take up to 12 months, and there are additional uncertainties about available Parliamentary time given the political situation in Westminster.

These orders will need to be in force ahead of the launch of the benefit, and we have been engaging closely with the relevant UK Government departments, and the Office of the Secretary of State for Scotland, to stress the urgency of these and ensure the UK Government and Parliament can progress them as quickly as possible.

POLICY AND DELIVERY DEVELOPMENTS

Background

Over the summer, we undertook the 'Discovery' phase of social security design, involving user research and impacting work, to determine potential service design issues and how these could be addressed. A key consideration has been the need to move quickly, and introduce payments in a safe and secure manner. That speed of introduction – so we can make first payments by Christmas next year - has determined both our legislative route, and the need to build upon existing functionality within Social Security Scotland, utilising what was developed for Best Start Foods and the Best Start Grant. That means that some elements of the payment will be fixed. Below we have highlighted some of the key issues we have examined, and our proposed next steps.

Application form

During the initial development of the Scottish Child Payment, some stakeholders raised the possibility of introducing an 'automated' payment, to ensure take-up is maximised. The Scottish Government recognises that there are positives to such an approach, and looked carefully at automated options. However, automation is complex, time-consuming, and technically challenging – and simply isn't possible if we want to get money into families' pockets as quickly as possible, while safeguarding as far as possible the existing programme of devolved benefits.

As with all of the devolved benefits, and as set out in the Social Security (Scotland) Act 2018, we are committed to maximising take-up. We plan to work with stakeholders and users of the benefits system to develop a plan, drawing on lessons from what has worked with Best Start Foods and Best Start Grant, to get maximum take-up of the Scottish Child Payment and ensure every family receives the support they are entitled to.

As one part of that, we considered how we could ensure the application is as simple and straightforward as possible, and particularly how it could interact positively with the existing low income benefits of Best Start Grant and Best Start Foods which share many of the underlying eligibility criteria.

We considered a number of options, balancing legal requirements against ensuring a simple process for applicants. As a result, while we will continue with separate, standalone application pages for i) Scottish Child Payment, and ii) Best Start Grant and Best Start Foods (which currently operate as a combined application), we will offer individuals applying for one of the above benefits the opportunity to be considered for the other benefit, and combine applications.

Importantly, this will streamline the process for applicants into one application form, but will create two separate applications for Social Security Scotland to process via their case management system. This ensures we retain the right for individuals to receive determinations on each application they submit – meaning they will not have to wait on a decision for one of the benefits in order to receive the other – and makes it clearer and simpler should they wish to query or appeal this; but above all it means that they only need to provide information once.

Given the expected scale of the Scottish Child Payment – with up to 140,000 households eligible for the early payments, rising to 246,000 households upon full roll-out to under 16s

– we have also had to give consideration to how we manage applications and ensure Social Security Scotland has sufficient time and capacity to process valid applications. Experience from the Best Start Grant has shown we receive a relatively high number of ineligible applications – for example, where someone applies but is not resident in Scotland. In such cases Social Security Scotland still has to process the application and provide a decision. For the Scottish Child Payment, we intend to put in place mechanisms to ensure such obvious invalid applications cannot be submitted, and clearly tell applicants where that is the case. That helps safeguard the processing of valid applications, while providing quick and clear advice to applicants as to where their application is invalid.

Automatic award of Best Start Grant and Best Start Foods

Across all of the devolved benefits, the Scottish Government is committed to ensuring we minimise as far as possible any burden on claimants, and that we put in place the appropriate mechanisms to maximise uptake. As part of that, we have considered where we could more readily automate payments of the Best Start Grant and Best Start Foods for those who are eligible for Scottish Child Payment. As mentioned earlier, both benefits share many of the same eligibility requirements and meet the same policy intent: supporting children and families.

As such, the Scottish Child Payment regulations will make provisions for “*determination without application*”, future proofing the ability for Social Security Scotland to determine eligibility without an application having to be made to enable us to make such automatic payments at an appropriate point in the future. Due to the technical requirements and the fast-paced environment we are working in – particularly as introduction of the Scottish Child Payment will take place around the same time that we are introducing the more complex disability benefits – we would only be able to introduce any such functionality after full roll-out of the benefit in 2022. We are, however, committed to automation where possible. We will explore if and how we can provide automatic payments of Best Start Grant for Scottish Child Payment applicants, and when this may be possible, recognising that we could not start the process until after full roll-out of the Scottish Child Payment.

Best Start Foods operates under a different legal framework from Best Start Grant and so the “*determination without application*” provisions do not apply. Therefore, as a first step, we will explore the practical and legislative implications to determine the feasibility of taking the same approach for Best Start Foods.

Frequency of payments

As set out in the initial position paper, our working assumption has been that the Scottish Child Payment would be paid ‘monthly’ – in practice, this would mean four-weekly payments. This ensures clients would have greater certainty over when they would be paid (on a set date each month) and how much they would be paid (always a multiple of £10, as opposed to the fractional amounts that would be required with true monthly payments).

Since the initial announcement, we have been engaging closely with a number of stakeholders and undertaking detailed user research to determine the views of the people who will actually be receiving the payments. There was no overall consensus as to how often the Scottish Child Payment should be paid. Some people felt that more frequent payments would be a positive, allowing the payment to act as a ‘stop-gap’ in between less regular payments, while others felt a longer period would be positive, as it would provide a greater amount to deal with recurring, monthly expenses.

More frequent payments would pose a greater risk for Social Security Scotland's operations. The more frequent the payment, the greater the volume of transactions required each week by the agency, with consequent higher resource requirements. At a time when there is the ongoing introduction of the devolved benefits, and given the Scottish Child Payment will be one of the first high-volume, recurring benefits, we have to balance carefully ensuring the greatest impact for individuals, while protecting as far as possible the existing programme and the capacity of Social Security Scotland to deliver this new benefit, and the other devolved benefits. We are also aware that this is an additional benefit and not an income replacement benefit, and that it has been accommodated within an existing programme of benefit introduction affecting more than half a million people across Scotland.

Given these considerations, the regulations for the under 6s payments will specify that payments will be made on a four-weekly basis. Any amendments to this would only be possible after full roll-out. We have, however, committed to reviewing the Scottish Child Payment during the course of the next Tackling Child Poverty Delivery Plan (2022-2026), and as part of this we will research further user preferences following the full-roll out of the benefit and consider providing more flexibility for clients, if there is demand for this.

Timing of payments

In user research and stakeholder engagement activity we have heard the potential advantages of paying benefits in advance, rather than in arrears. We recognise the value of this, particularly to help mitigate some of the negative impact that delays and the 5 week wait for the first payment of Universal Credit, which is reserved to the UK Government, have had on people. However, it is not possible within our current powers to pay the Scottish Child Payment in advance.

Use of top-up powers requires that we know that a person is entitled to a reserved benefit for the period for which we are making a payment. With payments in advance, there is no way of knowing potential future reserved benefit entitlement. This means that if the individual is not entitled to a reserved benefit for the period the Scottish Child Payment covers, then we would be making a payment outwith our legislative competence. Therefore payment must be in arrears.

Continuing payments

When the Scottish Child Payment was launched, it was made clear that while the payment would be fully introduced by the end of 2022 (assuming UK Government cooperation), early payments would be made for children under 6. This is a standalone payment for eligible families with children under 6. Should a children reach 6 years of age ahead of applications opening for the under 16s payment, the payment will stop and restart once the payments for 6-16 year-olds are introduced.

This approach has been driven by technical and legal issues. Currently, the Scottish Government only receives qualifying benefit data from DWP and HMRC for children aged under 6 (to enable us to pay the Best Start Grant). We have been in discussions with DWP and HMRC about extending this data feed to include children under 16 as soon as practicable; however, all indications to date have been that this will not be possible by the time we are ready to begin payments to under 6s. If we do not have the necessary data on eligibility and entitlement then we could not legally make a payment, as we would not be able to verify eligibility. In addition, we would not have the ability to build the required functionality to make continuing payments once a child reaches the age of 6.

Making provision for continuing payments would also arguably introduce unfairness and a two-tier system, where some six-year olds would get the Scottish Child Payment from 2020-22, while others in near-identical circumstances would not. For example, families who move to Scotland just after their child turns six would be ineligible before full roll-out, and there may be children who miss out on continuing payments by a matter of days.

Cross-cutting issues

As the power to top up reserved benefits is a general regulation making power, the wider cross-cutting provisions of the Social Security (Scotland) Act 2018 do not apply – they only relate to the specific devolved benefits named in Chapter 2 of the Act. As such, for the Scottish Child Payment we have had to consider which provisions will need replicated in regulations. Given these provisions have been through significant user research and testing, stakeholder engagement, and public consultation, we have taken the view that as a benefit being delivered by Social Security Scotland, the Scottish Child Payment should be treated similarly to the devolved benefits.

This includes provisions on application, determination, and redetermination which we have replicated from the Act. People will have the same rights to apply for the Scottish Child Payment, receive a determination, and, should they disagree with that determination, request a redetermination and ultimately appeal.

Scottish regulations will also include provisions to allow Scottish Ministers to make a determination without application once the Scottish Child Payment has been introduced, where an individual been unsuccessful in their application as a result of reserved benefit decision. In these instances, where this was as a result of an incorrect decision being made on a reserved benefit, and the person has since appealed and received a backdated award, the Scottish Child Payment will also be backdated to the point a person first applied for it.

Qualifying benefits

As set out in the initial position paper, eligibility for Scottish Child Payment will be based on an individual being entitled to a qualifying benefit and having responsibility for a child. For many applicants, child responsibility can be verified through a suitable benefit – one of Child Benefit, Universal Credit Child Element, Child Tax Credit, or Pension Credit Child Addition. Because the top-up will be applied to the qualifying benefit, however, this may not be possible for everyone. Therefore we will also extend responsibility to where someone can evidence responsibility (while not exhaustive) through a local authority care order, or a court order.

At the time the initial position paper was published, our working assumption was that we would apply a top-up to all relevant qualifying benefits for families on low incomes. As we have progressed with the legal drafting for the regulations it became apparent that we would have to exclude Housing Benefit, as a result of the constraints of the top-up powers we are using.

Housing Benefit is provided for the specific reason of housing assistance, whereas the Scotland Act (and Social Security (Scotland) Act 2018) contains a specific reservation that we cannot give a top-up for the purposes of housing assistance. We anticipate the number of people affected by this policy change will be small, and in the majority of cases where an applicant was responsible for a child and only entitled to Housing Benefit it would likely be

as a result of not claiming their full benefit entitlement (for example, Child Tax Credits). We will ensure this is properly communicated to potential recipients.

It is recognised that some people, particularly those who have just had a child, may want to apply quickly for the Scottish Child Payment, but may not yet be entitled to a child responsibility benefit. While we do not use birth certificates as evidence (as they do not necessarily indicate legal responsibility), regulations will be put in place to give Social Security Scotland the ability to hold over an application for a certain period if they can see that the applicant is not yet entitled to the necessary benefit, but may soon be. In these instances, once the qualifying benefit is in place, the application can be processed and, importantly, the payment will be made from the point the person applied.

NEXT STEPS

Delivering a new benefit on the scale of the Scottish Child Payment presents significant opportunities to support families, and tackle child poverty, but also brings with it challenges.

Since the initial announcement on the Scottish Child Payment in June, a significant amount of work has been undertaken to further refine our thinking on delivery requirements and implications, and develop draft regulations. We will continue to work at pace to deliver it.

Our next steps are to submit draft regulations to the Scottish Commission on Social Security for scrutiny, to ensure we can lay regulations in the Scottish Parliament. In parallel, and following the completion of the 'Discovery' phase, work has started on the 'Alpha' phase of service design, during which we will continue to engage with citizens on user research, design the client journey for the new benefit and prototype our application forms and test the draft application process within our case management system.

Social Security Scotland will continue recruitment drives to ensure readiness for delivery of the Scottish Child Payment: recent recruitment workshops had over 1000 attendees, resulting in the 100 Operations posts currently being advertised receiving over 1700 applications. Initial work has also started with the agency's Property Division to explore the feasibility of options for suitable classroom space for training and onboarding the large volumes of new staff expected to be required.

We will be highly dependent on the co-operation of the UK Government to ensure we can start making payments next year, and we will continue to work closely with them, particularly on the necessary data sharing and legislative requirements.

Throughout all of this we will continue to engage closely with stakeholders, and undertake further user testing and research, to ensure the voices of those who will benefit from the Scottish Child Payment are at the heart of its development. This will include specific and detailed work with seldom heard groups, and those with protected characteristics, such as women's groups, young parents and black, minority and ethnic communities.



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